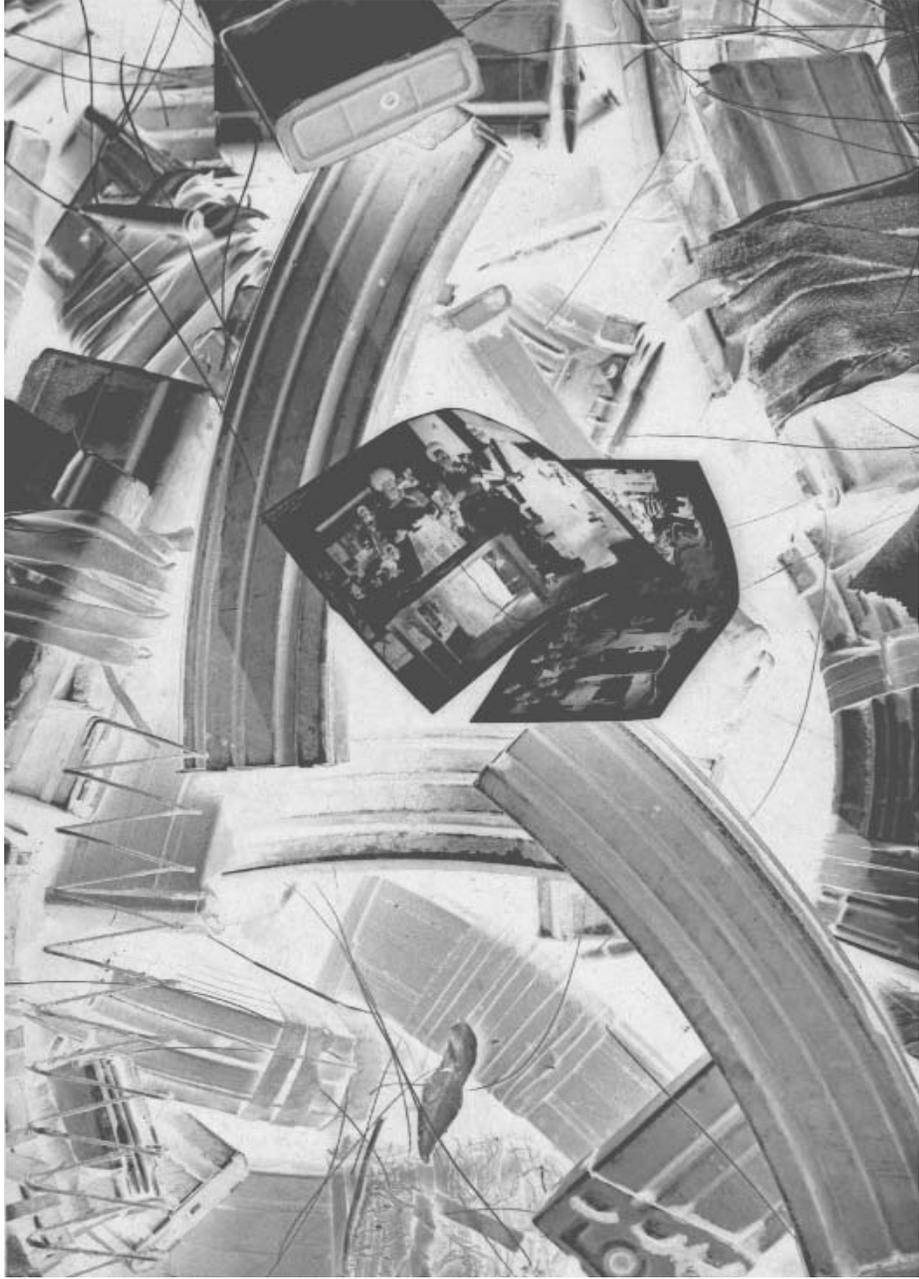


VI

Recommendations to the Commonwealth



Recommendations to the Commonwealth

Wherever human rights are endangered through the irresponsible transfer, the irresponsible use, or the poor implementation of laws aimed at controlling and collecting light weapons, Commonwealth governments are failing to uphold their commitments to their citizens and to each other under the 1991 Harare Declaration. The Commonwealth must take action, both as a collective and as a set of individual states, to contain the threats posed by light weapons

A Commonwealth Consensus on Light Weapons

The Commonwealth Human Rights Initiative recommends the development of a **Commonwealth Consensus on Light Weapons**, comprised of three discrete policy directions. This consensus aims at an integrated approach to limiting and controlling supply as well as reducing demand, and encompasses measures designed to **regulate legal transfers, control illicit flows and create conditions for cultures of peace** to flourish.

The strength of the Commonwealth forum in addressing the light weapons issue lies partly in the fact that Commonwealth members are themselves participants in a myriad of concrete action programmes, each with a contribution to make to the crisis of proliferation. The **Consensus** must address both the irresponsible supply of arms and the rebuilding and demilitarising of war-torn societies where arms have accumulated.

I. Controlling Legal Transfers of Light Weapons

- CHOGM should immediately appoint a Commonwealth Working Group to urgently formulate a Commonwealth Consensus on Light Weapons, which would prohibit the transfer of military, security and police weapons,

personnel and training UNLESS such transfers promote human rights, and do not divert resources from human development.

- CHOGM should urge all member states to adopt the International Code of Conduct on Arms Transfers.
- CHOGM should urge all member states to participate fully in the UN Register of Conventional Arms Transfers.

The European Union adopted the EU Code of Conduct on Arms Transfers in June 1998 after persistent lobbying by NGOs, politicians and eminent people across Europe for government restraint in sanctioning arms transfers. This groundbreaking regulatory document binds EU member-states to apply eight common criteria to all weapons transactions to a third country. Of relevance to the Commonwealth are the criteria that forbid arms sales where there is a clear risk that the arms will be used to abuse human rights; where they might be diverted or re-exported; or where they might exacerbate regional tensions or have a negative impact on the importing state's human and economic resources.

Following from the EU Code, a commission of Nobel Peace Laureates, led by Dr. Oscar Arias, former President of Costa Rica, proposed the adoption of an internationally binding code on transfers in 1997. Since its inception, it has been endorsed by 17 Nobel Peace Laureates, including Desmond Tutu, José Ramos-Horta, and the Dalai Lama. The International Code of Conduct on Arms Transfer is still in draft form but it already promises big improvements over the EU Code, particularly with regard to human rights. No less than four articles of the proposed International Code are dedicated specifically to the promotion and defence of human rights. Articles 1 and 2 require states wishing to import arms to comply with **international human rights standards** and **international humanitarian law**. Furthermore, the Nobel Laureates' Code proposes the **respect for democratic rights** and **promotion of human development** as preconditions for arms supply.

II. Combating Illegal Transfers

- **The Commonwealth should broaden the concept of illicit or illegal trafficking to include transfers of arms to any entity guilty of abusing human rights or of funnelling arms to human rights abusers.**
- **CHOGM should strongly condemn the lack of legislation in the**

Commonwealth aimed at tackling “third-country weapons brokering.”² At the same time, CHOGM should acknowledge the courage of the South African Government in leading the way in the Commonwealth toward effective regulation of weapons brokering and shipping by entities based on its territory.

- CHOGM should declare its support for bilateral and regional frameworks for light weapons trafficking control. Police and custom officials from South Africa and Mozambique have recorded admirable success in fighting illegal trafficking through ‘Operation Rachel’. SADC and ECOWAS are likewise developing similar frameworks.

The illicit trade in weapons and ammunition is a significant cause of light weapons proliferation and a dangerous threat to human rights. There is a clear consensus, within the international community and civil society, for the need to curtail the illegal and grey markets. An international initiative is already underway within the UN, to develop a legally binding Firearms Protocol on illicit trafficking.³ The OAS and the EU have already pioneered frameworks to combat the problem. The Commonwealth can draw from the experience of existing initiatives, with a view to formulating practical measures to fight the menace of illicit weapons.

States and “non-state actors” – militant organisations, criminal networks, rebel armies – should be judged by and held to the same human rights standards. Under this definition, private sales of automatic weapons to drug trafficking organisations would fall under the same general category of censure as transfers of weapons to regimes with a clear record of engaging in internal repression. Key members of the Commonwealth – notably Canada, the UK and South Africa – have already incorporated this concept into their arms export policies, a step other Commonwealth states should emulate and extend to the bilateral and regional level.

III. Creating Cultures of Peace

- CHOGM should embrace the “proportional and integrated approach to disarmament and development”, which recognises that the security of the individual and freedom from fear, must be crucial guarantees in the development process.
- The Commonwealth must engage states and civil society to implement

sustainable, people-centred development policies in post-conflict environments to consolidate disarmament and demilitarisation programmes.

- Commonwealth states should review existing legislation on civilian possession of firearms, following progressive models such as those of the UK, Australia and New Zealand.
- Commonwealth states should raise the level of professional behaviour of the military, police and custom officials, by ensuring that human rights training programmes are an equal part of initiatives to increase the capacity of the security sector.
- The Commonwealth should support programmes aimed at improving the registration and recording of firearms in civilian possession.

Commonwealth governments are obliged to create social environments where people will not feel the need to resort to arms and violence for self-protection, to provide for themselves or to press political demands. Working in tandem with civil society, governments must build Human Security, where populations are free from fear of violence and enjoy the full complement of social and civil rights. A key requirement in post-conflict societies, and in societies in which light weapons represent a threat to individual security, are programmes which comprehensively address the need to collect and destroy weapons, to find peaceful employment for former soldiers, and to build accountable security forces which both possess a monopoly on the use of force and are thoroughly inculcated with a respect for human rights and legal methods.

Reform of the security sector is thus a crucial step in controlling light weapons proliferation. A population is more likely to disarm when it is confident that the military, the police and other security forces are guided by human rights principles. Citizens are less reluctant to give up weapons and ammunition when they can be assured of adequate protection from violent crime. At the same time, security forces must also have the capacity to check the flow of weapons and ammunition across borders and to decommission them. Such a programme must go hand in hand with political processes for peace and reconciliation: this is the universal lesson, from Mozambique to Northern Ireland. Within the Commonwealth, both the Commonwealth Fund for Technical Cooperation and the Commonwealth of Learning are entities with the resources to build pan-Commonwealth cooperation in the direction of security sector reform.

A Reinvigorated Commonwealth Ministerial Action Group (CMAG)

- **CMAG must take operational responsibility for implementing the human rights agenda of the Commonwealth.**
- **CMAG is strongly urged to undertake a thorough review of the impact of the Harare Declaration prior to its tenth anniversary at the Canberra CHOGM in 2001.**

In the past, CMAG has limited its scrutiny of “serious or persistent human rights abuses” to three states – Nigeria, Sierra Leone, and the Gambia – whereas there are chronic human rights abuses occurring in many more Commonwealth states that require investigation. CMAG should, with the assistance of a politically independent Commonwealth Human Rights Commissioner (see below), report on abuses occurring in current member states.

Therefore, the Commonwealth Human Rights Initiative recommends that CMAG activities should now expand beyond their traditionally narrow remit. CMAG must rigorously investigate the human rights record of prospective member states in order to bring to life the rules adopted at the Edinburgh summit in 1997, which require governments to conform to the Harare Principles before they can join the Commonwealth. At the same time, CMAG must mandate itself to work more openly with NGOs and other civil society actors throughout the Commonwealth.

In keeping with its expanded responsibilities to ensure that member states comply with their obligations, an invigorated CMAG must ensure that governments act in concert to control light weapons violence in Commonwealth societies. However, more financial support and political commitment is necessary to impart CMAG with greater institutional influence. This will clearly indicate the commitment of Commonwealth states to furthering human rights standards.

A Commonwealth High Commissioner for Human Rights

- **A Commonwealth High Commissioner for Human Rights should be established to thoroughly investigate serious violations of human rights, recommend appropriate redress and provide advice on the protection and promotion of human rights.**

After almost a decade of life, the Harare Principles are very much in need of additional machinery, designed to help realise the fundamental values of the Commonwealth for 1800 million citizens in 54 countries. A High Commissioner for Human Rights would exist independently of the Commonwealth Secretary General's office and the Commonwealth Secretariat. At the same time, the High Commissioner would provide recommendations to the Secretariat, to the Commonwealth Ministerial Action Group, and to member governments, should they approach the Commissioner for advice and assistance.

The international breadth of the Commonwealth, and the vast population which it encompasses, would make a Commonwealth Human Rights Commissioner a leading moral figure in the world, provided that the office is legitimated as much by the citizens of the Commonwealth as by member states. The Commonwealth would thus be in a position to make its own contributions to international institutions promoting human rights standards.

A natural issue for a Commonwealth Human Rights Commissioner to address would be the proliferation of light weapons in the Commonwealth and the human rights crisis unfolding as a result.

Conclusion

At the Harare CHOGM in 1991, Commonwealth Heads of Government agreed to support “the world’s search for peace, disarmament, and effective arms control.”⁴ Moreover, the Harare Declaration defines the “fundamental values of the Commonwealth” as democratic processes, which reflect national circumstances, the rule of law, the independence of the judiciary and just and honest government.⁵

These are the critical elements of good governance. The submissions in this report show in a detailed manner that in the Commonwealth, as everywhere, there can be no good governance without effective arms control, and without effective arms control there can be no good governance.

At the core of the Harare Commonwealth Declaration of Principles are human rights and a commitment to democracy. CHRI calls on the Commonwealth Heads to ensure that human rights standards serve as the point of departure and guiding principle of all aspects of small arms policy within their member states.

There is no denying the complexity of the small arms problem, given its diverse interrelationships with government policies and how it impinges on daily lives. By adopting human rights considerations as a standard benchmark, the Commonwealth can arrive at a consensus quickly and not get bogged down in differing opinions over such issues as the right to bear arms and whether weapons are a cause or effect of human rights abuses.

For a Commonwealth of conscience, forging a society that respects human rights through its democratic institutions means building systems of government based on the rule of law and the guarantee of freedom from fear and want. Good governance based on civil and political rights is contingent on the assurance of economic and social rights. To ensure that human rights become the cornerstone of government policy on small arms the transfer, possession and deployment of weapons should not undermine governance, but rather promote and defend human security and development.

In this volume, authors drawn from all regions of the Commonwealth show the connections between small arms proliferation and misuse on the one hand, and human insecurity and underdevelopment on the other. They analyse unethical arms transfers, poorly regulated brokering regimes, lax firearm ownership legislation, and excessive accumulation in war zones and in areas of tension. The consequences are the increasing lethality of arms violence and crime, which is breeding a growing sense of insecurity around the world and thus creating unsafe environments for economic and social activities. Democratic societies, and the institutions upon which they are based, require a minimum guarantee of peace, and freedom from fear of violence. ■

¹ For a full explanation of this proposed Code, see submission by Geraldine O'Callaghan and Kate Joseph in this volume. (Ed.)

² See submission by Brian Wood and Johan Peleman in this report for a full explanation of the problem of "third-party

weapons brokering" in the Commonwealth. (Ed.)

³ See Geraldine O'Callaghan & Kate Joseph in this report. (Ed.)

⁴ Article IX, *Harare Commonwealth Declaration*, p. 7.

⁵ *Ibid.*

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